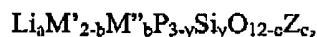


REMARKS

Reconsideration of this Application is respectfully requested. Applicant has addressed every objection and ground for rejection stated in the present Office Action, and believe the Application is now in condition for allowance.

1. Statement of the Case and Status of the Claims.

The present invention is generally directed to electrode active materials represented by the nominal general formula:



wherein:

- (a) $a \leq 0$;
- (b) $0 \leq b \leq 2$, and M' and M'' are the same or different from one another and are each selected from the group consisting of metal and metalloid elements, wherein at least one of M' and M'' is multivalent;
- (c) $0 < y \leq 3$; and
- (d) $0 < c < 12$, and Z is a halogen; wherein M', M'', Z, a, b, y, and c are selected to balance the first electrode active material total charge.

The present invention is also directed to electrodes and batteries containing the active materials of the present invention.

Claims 1 - 22 are currently pending in the Application, and stand rejected. Upon entry of the present Amendment, Claims 1 - 22 will be cancelled, and new Claims 23 to 43 will be pending. Support for the new Claims can be found in the specification as filed.

2. **Double Patenting Rejection**

Claims 1 - 22 stand rejected under the judicially created doctrine of obviousness-type double patenting, as being unpatentable over Claims 20 - 22 of U.S. Patent No. 6,153,333 to Barker et al. (Barker '333). Claims 1 - 22 have been cancelled herein, and new Claims 23 - 33 have been added. In accordance with 37 C.F.R. §1.130(b), Applicant has submitted herewith a terminal disclaimer under 37 C.F.R. §1.321. Accordingly, Applicant submits the present double patenting rejection has been overcome, and respectfully request withdrawal of the Examiner's rejection.

3. **35 U.S.C. §112, ¶1 and 35 U.S.C. §132 Rejections**

Claims 1 - 22 stand rejected under 35 U.S.C. §112, first paragraph, and 35 U.S.C. §132. The Examiner objects to the language "where a portion of the phosphorous (P) is substituted by one or more ions having a +4 or +5 valence state selected from the silicon or phosphorous family of the Periodic Table."

Applicant has deleted Claims 1 - 22, and new Claims 23 - 43 have been presented herein. The limitation objected to by the Examiner is not recited in new Claims 23 - 43. Accordingly Applicant submits that new Claims 23 - 43 comply with the requirements of 35 U.S.C. §112, first paragraph, and 35 U.S.C. §132, and respectfully request withdrawal of the Examiner's rejection.

4. **Rejection Under 35 U.S.C. §102(b)**

Claims 20 - 22 stand rejected under 35 U.S.C. §102(b) as being anticipated by Nanjundaswamy et al., "Synthesis, Redox Potential Evaluation and Electrochemical Characteristics of NASICON-related 3D Framework Compounds" Solid State Ionics, vol. 92, pp. 1 - 10 (1996) ("Nanjundaswamy article"). Claims 20 - 22 have been cancelled, and new Claims 23 - 43 have been presented herein.

The Nanjundaswamy article discloses compounds of the general formula (I):



wherein M = Ti, (V Fe), or Fe. However, the Nanjundaswamy article fails to teach or suggest inclusion of a halogen moiety into the host structure described by general formula (I).

In contrast, new independent Claims 23 recites, among other things, a battery comprising an electrode active material represented by the general formula (II):



wherein, among other things, $0 < y \leq 3$, $0 < c < 12$, and Z is a halogen.

Accordingly, because the Nanjundaswamy article fails to teach or suggest Applicant's invention as claimed in new independent Claim 23, Applicant respectfully submits that new independent Claim 23 and all Claims depending there from, are patentably distinct from the subject matter disclosed in the Nanjundaswamy article.

5. Information Disclosure Statements

Applicant submitted an Information Disclosure Statements on October 10, 2002 and September 11, 2001. It was not clear from the record, at that time, whether these Information Disclosure Statements were formally entered. Applicant requests that these two previously-presented Information Disclosure Statements, as well as the Information Disclosure Statement submitted herewith, be considered and made of record in the present Application.

6. Conclusion.


In view of the remarks presented herein, Applicant submits that every objection and ground for rejection stated in the present Office Action has been overcome. Accordingly, Applicant respectfully submits that new Claims 23 - 43 are allowable over the prior art of record.

Should anything further be required, the Examiner is respectfully requested to telephone the undersigned at 702-558-1071.

Respectfully submitted,

Dated: July 21, 2004
VALENCE TECHNOLOGY, INC.
301 Conestoga Way
Henderson, Nevada 89015
Telephone: 702-558-1000
Facsimile: 702-558-1310

By:


Michael Ross
Reg. No. 45,057